

**PATENT****ATTORNEY DOCKET NO. W1200-00034****III. Remarks**

Claims 1-30 and Claims 92-123 are pending in the present application. Applicants are grateful to the Examiner for recognizing the allowable subject matter claimed in pending Claims 7, 8, 16, 26-30, 98, 99, 107 and 117-121. Claim 121 is objected to. The remaining pending claims are rejected as set forth in the Action. Reconsideration and withdrawal of these rejections and the objection are respectfully requested in view of the foregoing amendments and the arguments set forth below.

**A. Claim Objection**

The Examiner objects to Claim 121 for the following informality: the preamble is directed to a system, so the claim should be directed to Claim 120 rather than Claim 20. Claim 121 has been amended to correct this informality. Withdrawal of this objection is respectfully requested.

Claim 122 has also been amended to correct its preamble to recite "method" rather than "system", being that Claim 122 depends from method Claim 1.

**B. Claim Rejection Under § 103**

The Action rejects independent Claims 1 and 92, and dependent claims 2-6, 9-15, 17-25, 93-97, 100-106, 108-116, and 122-123 as being obvious from U.S. Patent No. 6,089,981 to Brenner et al. (hereinafter, Brenner) in view of U.S. Patent Publication No. 2001/0047921 to Garahi et al. (hereinafter Garahi). In rejecting independent Claims 1 and 92, the Examiner concludes that Brenner discloses every feature recited in these claims except "Brenner does not expressly disclose a listing of tracks at a future and a listing of currently scheduled races of the tracks for a current day." The Examiner then relies on Garahi for teaching "a listing of tracks at a future and a listing currently scheduled races at each of the tracks for a current day" (Citing Paragraphs 93-94).

## PATENT

## ATTORNEY DOCKET NO. W1200-00034

Turning first to the Examiner's characterization of Brenner as providing race data to a user through a computer network, Applicants would like to again submit that the Examiner has misconstrued the nature of the system of Brenner et al. when he concludes that "Brenner discloses a means for providing race entry data through a computer network to a user terminal . . ." Action, Page 2, ¶4 (emphasis added).

The Brenner system clearly does not provide racing data or odds data to a user terminal via a computer network. The Examiner cites to the summary section for support for this feature. Applicants have carefully reviewed Brenner, including the summary of Brenner. The summary of Brenner clearly indicates that the system of Brenner does not provide racing data via a computer network, but rather provides racing data via a television medium, such as through a television channel distributed by a cable headend (See, e.g., Summary, ¶¶1-3; Column 3, seventh full paragraph; and Column 4, second full paragraph).

By way of example, the detailed description of Brenner describes the path of racing and odds data in the system of FIG. 29 as being from the wagering data management facility 380 to the racing data interface 372 to the video and data distribution system 368 over cable link 376 to the user terminal 370 (Column 17, Line 29 to Column 18, Line 61). Conversely, communication line 390 and network 392 communicate "wagers" and "accounting information." Wagers and account information are not race entry, race program or odds data that are received by the user terminal of Brenner. Simply, Brenner provides no disclosure indicating that racing data and odds data can or do travel through a path, such as network 392, to user terminal 370 other than through a television transmission path.

Indeed, Applicants submit that such a system is completely antithetical to the teachings and purposes of the Brenner system – to distribute data via a mass communication television system. The Brenner distribution method is described as follows:

In wagering system 100, racing data are provided from distribution facility 120 to user terminals 122 via a distribution network 124, which is either

## PATENT

ATTORNEY DOCKET NO. W1200-00034

cable wired directly to the home, a system of home satellite receivers, or radio or television broadcasting equipment. An advantage of using cable, satellites, or broadcast systems in distribution network 124 is that video information along with large quantities of racing data may be supplied to a large array of user terminals 122 more economically than with other systems. Using this type of system, the user can receive the racing data continuously, without forcing the wagering system 100 to monopolize the user's telephone line.

Column 7, Lines 7-24. Specifically with respect to the system of FIG. 29, the system is configured to provide racing data and racing video together through conventional video distribution networks: "Thus, wagering system 366 avoids the shortcomings of previously known systems in which no racing videos could be provided to user-controllable terminals and in which limited racing data were at best provided to off-track terminals via telephone lines." (Column 18, Lines 39-43).

Distributing the recited data through a computer network, such as the Internet via an HTTP session, is certainly not disclosed or suggested by the television distribution network and method described by Brenner et al. It is also submitted that, although other art of record may generally disclose communications via the Internet, Brenner et al. expressly teaches against using data communication means other than television distribution methods.

As noted above, the Examiner also relies on Garahi. Garahi is prior art to the present application only by claiming priority to U.S. Provisional Application No. 60/194,799 filed April 5, 2000 (hereinafter, The Provisional). Indeed, the present application was filed October 31, 2000. Garahi was not published until November 29, 2001 and is based on an application filed April 2, 2001, both of which are after Applicants' filing date. Review of the disclosure of The Provisional for support for the disclosure of Garahi relied upon by the Examiner in the Action is, therefore, required.

## PATENT

ATTORNEY DOCKET NO. W1200-00034

In rejecting independent Claims 1 and 92, the Examiner relied upon Paragraphs 93-94 of Garahi for teaching a "listing of tracks at a future and a listing of currently scheduled races at each of the tracks for a current day". (Action, Page 4, last paragraph). The Provisional, however, provides no support for this feature. Indeed, The Provisional, in its entirety, is less than one and one-half pages and includes no figures. The first one-half page is background material. The most pertinent part of The Provisional is provided hereafter:

In accordance with this desire and other objects of the present invention, systems and methods for placing parimutuel wagers for future events are provided. In order to facilitate placement of a parimutuel wager well in advance of a future event, the invention determines a time window in which the wager may be placed. For example, two months prior to a popular race, a wager placement window may be designated as starting on a Thursday and ending on the following Sunday. During that time, the odds and payouts are calculated in the traditional manner. However, once the window has expired, the odds and payouts become fixed. In this way, a wagerer could place a wager two months in advance of a race and know the odds and payouts for that race before the traditional parimutuel pool for races has even started. An additional benefit provided by the present invention is the ability to hedge bets by allowing wagerers to place bets in subsequent pools with the knowledge of the odds and payouts in the earlier pools.

The Provisional, ¶6. The Provisional continues, on Page 2, to provide merely that "the user may indicate a specific event on which the wagerer desires to wager using a user interface." No details of the user interface are provided.

The dearth of disclosure in The Provisional clearly does not describe in anyway transmitting race entry data through a computer network to a user terminal, wherein said race entry data are displayed to said user by said user terminal, said race entry data including a listing of a plurality of tracks, a listing of scheduled races at each of said tracks at a future day, and a listing of original entries in each of said races.

Therefore, Claims 1 and 92 are not obvious from Brenner in view of Garahi. Claims 1 and 92, and Claims 2-30 and 93-123, which depend from Claims 1 and 92 are allowable over the

**PATENT****ATTORNEY DOCKET NO. W1200-00034**

prior art of record. Reconsideration and withdrawal of these rejections are respectfully requested.

Applicants would also like to briefly note that the Examiner relies on the disclosure of Garahi for teaching additional features claimed in claims such as Claims 17 and 108, Claims 18 and 109, Claims 19 and 110, Claims 20, 23, 111 and 114, Claims 21 and 112, Claims 22 and 113, Claims 23 and 114, Claims 24 and 115 and Claims 25 and 116. These claims recite features related to, for example, providing a search board, organizing search results, and providing statistical data. These features are clearly not described in or suggested by the short disclosure of The Provisional. Reconsideration and withdrawal of these rejections are respectfully requested.

PATENT

ATTORNEY DOCKET NO. W1200-00034

## IV. Conclusion

In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Assistant Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1769.

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